

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of

Amendment of Section 73.202(b),
FM Table of Allotments
FM Broadcast Stations.
(Wheatland, Colorado)

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MB Docket No. 05-98
RM-11187

To: Office of the Secretary, to forward to Media Bureau

REPLY COMMENTS

Clear Channel Broadcasting Licenses, Inc. ("CCBL"), the licensee of Station KRVK(FM), Channel 300C, Midwest, Colorado, Colorado, by its attorneys, hereby submits these Reply Comments in the above-captioned proceeding in which Mitchell Beranek proposed amending the FM Table of Allotments to add Channel 298A at Wheatland, Colorado, as a fourth local transmission service.

In a Counterproposal dated May 5, 2005, Kona Coast Radio, LLC ("Kona") proposed that Channel 247A should be allotted at Wheatland instead of Channel 298A, that Kona's station KVAN(FM), Rock River, Wyoming, should be switched from Channel 240A to Channel 242C1, and that Channel 299C should be substituted for Channel 242C at Luck, Colorado.

Kona notes in its Counterproposal that the allotment of Channel 299C at Luck, Colorado, is short-spaced to the currently licensed facilities of KRVK(FM). Kona asserts: "However, KRVK has a pending application for a one step downgrade from a Class C to a Class C1 (see BPH-20030602ACU). The proposed one step downgrade of KRVK, Midwest,

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Wyoming, allows for the substitution of Channel 299C at Lusk, Wyoming, as proposed in this Counterproposal.”

Indeed, as of May 5, 2005, the counterproposal deadline in MB Docket No. 05-98, the KRVK Class C1 application was pending – not granted, not constructed, not licensed – merely pending.

Perhaps Kona is unaware of established FCC policy that counterproposals in allotment proceedings must be technically correct and substantially complete at the time of filing. ^{1/} Specifically, it is Commission policy “not to accept rulemaking proposals that are contingent on the licensing of facilities set forth in an outstanding construction permit or are dependent upon final action in another rulemaking proceeding.” ^{2/} Here, the Kona Counterproposal is not merely contingent on an outstanding construction permit, it is contingent on a pending application for a construction permit.

Thus, because *at the time of filing* the Kona Counterproposal was contingent on the grant of the KRVK Class C1 application and, if granted, the subsequent construction and licensing of such a construction permit; the Kona Counterproposal is technically deficient and must be rejected on that basis.

^{1/} See e.g., *Carlisle, Irvine, and Morehead, Kentucky*, 12 FCC Rcd 13,181 at ¶ 4 (Allocations Br. 1997) (counterproposal is not “technically correct and substantially complete” at the time of filing when short-spaced to licensed site; “[p]roposals and counterproposals are supposed to be capable of being effectuated at the time they are granted and cannot be contingent upon future actions.”).

^{2/} *Saint Joseph, Clayton, Ruston, and Wisner, Louisiana*, 18 FCC Rcd 22 at ¶ 13 (Ass’t Chief, Audio Div., rel. Jan. 8, 2003) (footnotes omitted).

Respectfully submitted,

**CLEAR CHANNEL BROADCASTING
LICENSES, INC.**

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May 20, 2005

Certificate of Service

I, Regina Hogan, hereby certify that on this 20th day of May, 2005, a copy of the foregoing **Reply Comments** were sent by first-class mail, postage prepaid, to:

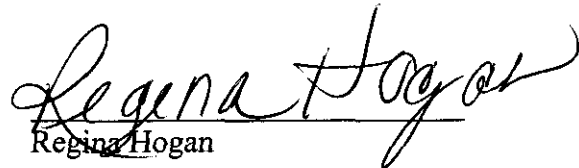
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